

Appl. No.: 09/675,532
Amdt. dated March 16, 2004
Reply to Office action of September 17, 2003

REMARKS/ARGUMENTS

Applicant received the Office Action dated September 17, 2003, in which the Examiner rejected claims 1-24 as obvious over Barnett (U.S. Pat. No. 5,664,093). In this Response, Applicant amends claims 12, 13, 16, 17, 19, 20, 22 and 23. Based on the amendments and arguments contained herein, Applicant believes all claims to be in condition for allowance.

I. REQUEST FOR REFUND

Although the mailing date of the Office Action is September 17, 2003, Applicant's representative never received the Office Action. On February 27, 2004, while reviewing the Office's PAIR system and the undersigned's own docketing system, the undersigned's docketing paralegal discovered that an Office Action had issued in this case, but was not received. The undersigned immediately contacted the Examiner who faxed a courtesy copy of the Office Action to the Undersigned. Out of an abundance of caution, Applicant hereby pays for a three month late fee in conjunction with filing this Response, but requests a refund for the amount of the late fee (i.e., \$950). The basis for the refund request is that the Applicant could not have filed the Response earlier than in the sixth month because Applicant never received the Office Action until the six month time period had almost expired. A Petition to Reset the Response Deadline and Request for Refund is hereby submitted as a separate paper.

II. THE CLAIM REJECTIONS

Barnett is directed to a technique for managing faults in a distributed system. See Title of Barnett. Barnett discloses a fault management system for use in a distributed system. The disclosed fault management system includes a configuration manager that maintains configuration information of components used in the distributed system. Col. 1, lines 59-63. A diagnostic system is also provided that detects faults occurring in the distributed system and provides solutions for correcting the faults. Col. 1, line 65 – col. 2, line 9. Barnett explains that "[I]f a service has poor performance, then the rules will explain how the various components affect the overall performance. By examining individual

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components, the diagnostic system uses its rules to suggest improvements that will increase performance.

Claim 1 requires, among other limitations, a first instance of "determining an overall problem index value associated with the current configuration, said overall problem index value providing a relative indication of the problems in the computer system." To satisfy this limitation, the Examiner referred to column 7, lines 26-34 of Barnett which provides:

This information can be used to make time critical decisions and intelligent guesses. Each component may have a value that indicates the probability of failure. Even if the diagnostic system cannot find out precisely which component is being used, as long as it knows the component reporting the problem requires another component, and other component used are working properly, it can estimate the probability that any particular component can cause the problem.

This passage does not state or even imply that an overall problem index value associated with the computer system's configuration is determined. At least for this reason, claim 1 is patentable over Barnett.

Additionally, the Examiner correctly noted that Barnett does not disclose the second instance of "determining an overall problem index value for the configuration as varied in (c)." The Examiner simply contended that re-determining the overall problem index would have been obvious. Applicant contends that the second instance of determining the overall problem is not obvious in light of the teachings of Barnett because Barnett does not disclose even once determining an overall problem index of a computer system's configuration. Thus, Barnett fails to teach or suggest at least two limitations in claim 1. Claims 2-11 depend on or from claim 1 and thus are allowable at least for the same reason as claim 1.

As amended, independent claim 12 requires, among other features, that "a configuration module receives a current configuration of the computer system, determines an overall problem index value associated with the current configuration, and determines a configuration that has fewer problems than the current configuration." As explained above, Barnett does not disclose

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determining an overall problem index associated with the configuration of a computer system. At least for this reason, claim 12 and its dependent claims are in condition for allowance.

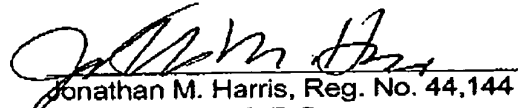
In claim 12, reference to a "user" was removed as not being considered necessary for patentability. Similarly, the explanation that the configuration comprises "hardware and software components" also was removed as not being considered necessary for patentability. Based on the amendments to claim 12, various amendments were made to claims 13, 16 and 17 to maintain consistent claim language. Applicant also amended claims 19 and 20 to correct some inadvertent format errors with the claims. The dependency links in claims 22 and 23 were changed from claim 1 to claim 12 to correct typographical errors. None of the amendments to claims 13, 16, 17, 19, 20, 22 and 23 narrowed the scope of the claims nor were made for reasons related to patentability.

In the course of the foregoing discussions, Applicant may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the cited art which have yet to be raised, but which may be raised in the future.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If any fees or time extensions are inadvertently omitted or if any fees have been overpaid, please appropriately charge or credit those fees to Hewlett-Packard Company Deposit Account Number 08-2025 and enter any time extension(s) necessary to prevent this case from being abandoned.

Respectfully submitted,

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